100-1
As of January 1, 1998, state law provides that any statutory reference to the Greater Avenues for Independence (GAIN) program shall mean the welfare-to-work activities under the CalWORKs program. (W&IC §11320)

100-3 REVISED 7/06
When there are laws or CDSS regulations which authorize counties to adopt specific standards which affect an applicant's or recipient's eligibility, grant amount, or welfare-to-work (WTW) activities, including supportive services, these standards shall be in writing and made available to the public on request. (§11-501.3, effective February 10, 1999; All-County Letter (ACL) No. 02-03, January 18, 2002) These county standards must be in compliance with translation requirements. (§21-115; ACL No. 00-08, January 3, 2000)

Examples of such mandated written standards include but are not limited to: (1) Definitions of what constitutes regular school attendance and good cause criteria under §40-105.5; extending the work exemption based on caring for a young child under §42-712.47; diversion program requirements under §81-215.32; child care or other required activities for children not in the AU under §§47-201.12 and 47-401.45; and continuing case management and/or supportive services for former recipients, under §42-717.1. (Handbook §11-501.3) Approximately 15 other examples of mandated written standards have been set forth by the CDSS. (§11-501.3, ACL No. 00-08)

100-4
Each county shall submit a plan for implementation of the CalWORKs program. The county may implement the plan upon its submission to CDSS, or January 1, 1998, whichever is later. Within 30 days of receipt of that plan, the CDSS shall either certify that the plan includes the descriptions of the elements required by W&IC §10531, and that the descriptions are consistent with the requirements of state law and applicable federal law, or the CDSS shall notify the county that the plan is incomplete or inconsistent, stating the reasons for its determination. Those counties which are notified that their plans are incomplete or inconsistent shall resubmit a revised plan to the CDSS for certification. (W&IC §§10532(a) and (b))

100-5A REVISED 7/06
Recipients are required to participate in an "appraisal", and at the option of the county, applicants may voluntarily participate. (§42-711.521)

Prior to or during the appraisal, the county shall inform the individual in writing of the following:

(a) The requirement to participate in WTW activities up to the 60-month time limit unless otherwise modified under §§42-711.55, .6 or .7, and for the required number of hours as required in §§42-716.2, .21 and .22.

(b) A general description of the WTW program.

(c) A general description of the participant's rights, duties and responsibilities including:

(1) A list of exemptions from participation, per §42-712.

(2) The consequences of a failure to take part in program activities, per §42-721, and the criteria for successful completion of the program.

(3) A description of good cause criteria for noncooperation, per §§42-713 and 42-721.3.

(4) The right to request a state hearing or file a formal grievance, per §42-721.5.

(5) The right to a third party assessment, per §42-711.556.

(d) A statement that the participant has three working days after the completion of the WTW plan or later amendments to that plan to evaluate and request changes to the terms of the plan, as well as a grace period of thirty days from the beginning of the initial training or education activity to request a change or reassignment to another activity.

(e) School attendance and requirements for children in the AU.

(§42-711.522, as revised effective April 3, 2006)

100-6 REVISED 7/06
A "reappraisal" is conducted when a participant does not obtain unsubsidized employment upon completion of all of the activities in a welfare-to-work plan, The reappraisal must evaluate whether there are extenuating circumstances, as defined by the county, that prevent the participant from obtaining employment in the local labor market area. (W&IC §11326; All-County Letter No. 97-72, Attachment 1, p. 11, October 29, 1997; §42-711.71, effective April 3, 2006)

100-7
An “assessment” is required when participants (except those in SIPs who are meeting minimum participation hours) do not find unsubsidized employment during the search period, or at any time the county determines that participation in job search will not be required as the first activity because it would not be beneficial, or decides to shorten job search because it is not likely to lead to employment. (All-County Letter No. 97-72, Attachment 1, p. 8, October 29, 1997; W&IC §§11320.1 and 11325.22; §42-711.551, effective July 1, 1998)

The assessment shall include at least the following information about the participant:

(a) The work history and an inventory of employment skills, knowledge and abilities.

(b) The educational history and present educational competency level.

(c) The need for supportive services in order to obtain the maximum benefits from the employment and training services offered under CalWORKs.

(d) An evaluation of the chances for employment given current skills, and local labor market conditions.

(e) Local labor market information.

(f) Physical limitations or mental conditions that limit the ability for employment or participation in welfare-to-work activities.

(g) Identification of available resources to complete the welfare-to-work plan.

(ACL No. 97-72, Attachment 1, p. 8; W&IC §§11325.4, .7, and .8; §42-711.554, effective July 1, 1998)

100-8
An "evaluation" is conducted when a participant with a suspected learning or medical problem, as indicated by information gathered during appraisal or assessment or by lack of satisfactory progress in an assigned program component, is referred to determine whether the participant is unable to successfully complete or benefit from a current or proposed program assignment. This evaluation shall be performed by a qualified professional. The county may require the person to undergo appropriate examinations to obtain information regarding the person's learning and physical abilities. (W&IC §11325.25(a); §42-711.58, effective July 1, 1998, and modified effective September 13, 1999)

100-9
"Adult Basic Education" means a welfare-to-work activity "with instructions in reading, writing, arithmetic, high school proficiency, or general educational development certificate instruction, and English-as-a-second-language." (§42-701.2a.(1), effective July 1, 1998)

100-10
"Community service" means a welfare-to-work training activity that is temporary and transitional, is performed in the nonprofit sector under the close supervision of the activity provider, and provides participants with basic job skills which can lead to employment while meeting a community need. (§42-701.2c.(3))

100-11
"Doctor" means a health care professional who is licensed by the state to diagnose/treat physical and mental impairments. The term "doctor" includes, but is not limited to, doctors of medicine, osteopathy, chiropractic, and licensed/certified psychologists. (§42-701.2d.(2))

100-12
"Employment" means work that is compensated at least at the applicable state or federal minimum wage. If neither wage rate applies, the work must be compensated in an amount equivalent to the lesser of the two. (§42-701.2e.(1))

100-13
"Work experience" means a welfare-to-work training activity under the close supervision of the activity provider, which helps provide basic job skills, enhances existing job skills, or provides a needed community service that will lead to unsubsidized employment. (§42-701.2w.(1))

100-14
"Enrollment" is defined as sending an individual a notice that the person is scheduled for a welfare-to-work appraisal or that the person is required to convert his/her GAIN contract to a welfare-to-work plan. (§42-702.3)

100-15
"Subsidized employment" means employment in which the welfare-to-work participant's employer is partially or wholly reimbursed for wages and/or training costs. (§42-701.2s.(2))

100-18 ADDED 12/04
Senate Bill (SB) 1104 amended sections of the W&I Code pertaining to the development the CalWORKs plan, WTW participation requirements, and the 18- and 24- month WTW participation period. The bill also authorized CDSS to implement new WTW provisions through All County Letter. CDSS will adopt emergency regulations to implement program changes by July 1, 2005. (ACL 04-41, October 8, 2004, citing SB 1104, Chapter 229, Statutes of 2004)

100-18A ADDED 12/04
Changes in the CalWORKs WTW program resulting from the passage of SB 1104 become effective December 1, 2004.

Effective December 1, 2004, any individual who begins receiving cash aid will be subject to the new WTW requirements. For an individual who already is receiving cash aid prior to December 1, 2004, and who is required to enter a plan, but has not done so, the county must develop a WTW plan that reflects the new WTW requirements, and have him/her sign it no later than March 1, 2005.

For an individual who is already receiving cash aid and has an existing WTW plan dated prior to December 1, 2004, the county must revise the WTW plan to reflect the new WTW requirements, and also have him/her sign it by no later than March 1, 2005.

For individuals who are in educational programs and making satisfactory progress under the existing WTW 2 and WTW 3, counties must allow them to complete their current quarter or semester.

(All County Letter 04-41, October 8, 2004 describing SB 1104 Chapter 229, Statutes of 2004 and errata to All County Letter 04-41)

101-1
Unless exempt from participation, an adult recipient in a one-parent AU shall participate in welfare-to-work activities for at least: 20 hours per week beginning January 1, 1998; 26 hours beginning July 1, 1998; and for 32 hours beginning July 1, 1999. (W&IC §11322.8(a), effective January 1, 1998; §42-711.411, effective July 1, 1998)

These minimum requirements may be increased: If more hours are mandated by 42 United States Code (USC) §607(c), and its successor statutes; or if the county requires all recipients or individual recipients to participate in excess of the minimum mandated

hours, but not more than 32 hours per week. (W&IC §11322.8(a), effective January 1, 1998; §§42-711.412 and .413, effective July 1, 1998)

101-2
Unless exempt from participation, an adult recipient in a two-parent AU who is an unemployed parent per W&IC §11201, shall participate each month for an average of at least 35 hours of welfare-to-work activities per week which will meet the required hours of participation under 42 United States Code (USC) §607(c) and its successor statutes. However, both parents in a two-parent AU may contribute to the 35 hours, if at least one parent meets the federal work requirement of a minimum of 20 hours per week. (W&IC §11322.8(b); All-County Letter No. 97-72, Attachment 1, p. 3, October 29, 1997; 42-711.421, effective July 1, 1998, and modified effective September 13, 1999)

101-2A REVISED 7/06
Per W&IC §§11322.8(a) and (b), the hours of participation for a one-parent AU remains at 32 hours per week, and the requirement for a two-parent AU remains at 35 hours per week.

Per W&IC §§11322.8(c), at least 20 hours of the 32 or 35 hour requirements must be in core WTW activities. Core activities are defined as unsubsidized employment; subsidized private sector employment; subsidized public sector employment; work experience; on-the-job training; grant based on-the-job training; supported work or transitional employment; work-study; self-employment; community service; vocational education and training; programs for up to 12 cumulative months during an individual's 60-month time limit on aid, and job search and job readiness assistance

Hours spent in specified non-core activities can also count as core hours as noted in §42-716.23.

Non-core activities are as follows: adult basic education; job skills training directly related to employment; education directly related to employment; satisfactory progress in secondary school or in a course of study leading to a certificate of GED; mental health, substance abuse, and domestic violence services; vocational education and training programs beyond the 12-month cumulative period counted as core activities, other activities necessary to assist an individual in obtaining unsubsidized employment, and participation required of the parent by the school to ensure the child's attendance.

(§42-701.2(c)(4), (n)(1); ACL 04-41, October 8, 2004)

101-2B ADDED 12/04
In a two-parent AU, when both parents contribute to meeting the 35-hour work requirement, the parents also may split the 20-hour core WTW activities participation requirement. However, one parent must participate in core and/or non core activities for a minimum of 20 hours per week. (ACL 04-41, October 8, 2004 describing W&IC §11322.8(b))

101-2C ADDED 12/04
Participation in vocational education and training as a core activity is limited to a cumulative total of 12 months while on aid. Time spent in vocational education and

training pursuant to previous WTW plans and/or plan amendments do not count toward this 12-month limit.

Participation in vocational education and training beyond 12 months may count as non-core hours.

(ACL 04-41, October 8, 2004; W&IC §11322.8)

101-3
To be eligible for federally funded child care (under §8350 et seq. of the Education Code), both parents in a two-parent AU shall participate in work activities that will meet the required hours of participation under 42 United States Code §607(c). (W&IC §11322.8(b)) The required hours of participation are currently 55 hours per week. (All-County Letter No. 97-72, Attachment 1, p. 4, October 29, 1997)

The 55-hour requirement does not apply to the family if an adult in the family is disabled, caring for a severely disabled child, or if nonfederal funds are used for child care. (§42-711.422)

101-6
CDSS has determined that several counties have implemented one or more of the following post assessment policies that are contrary to State requirements because they result in WTW assignments that are not based on the circumstances and needs of a participant, as determined by an individualized assessment. These include:

1. Limiting participation in non-self-initiated education programs (non-SIPs), including, for example, General Equivalency Diploma (GED), Adult Basic Education (ABE), English-as-a Second Language (ESL), and vocational education programs, to an across-the-board time frame shorter than the WTW period of 18- or 24-months.

2. Limiting participation in education or training programs needed for employment to only CalWORKs WTW participants who lack a high school diploma or GED.

3. Limiting participation in education and training programs needed for employment to only CalWORKs WTW participants who already are employed.

4. Imposing an across-the-board mandatory WTW participation requirement after assessment (e.g., 13 weeks of work experience [WEX]).

Counties that have implemented any of the improper WTW post assessment policies mentioned above must immediately rescind them and adopt new policies that conform to State regulations. These regulations allow for an 18- or 24-month period on aid, after signing the CalWORKs WTW plan that results from an individualized assessment, during which recipients may be allowed to participate in a range of allowable WTW activities. Allowable WTW activities may include education and training that are needed to assist an individual participant in obtaining either initial employment or higher paying employment leading to self-sufficiency.

(All-County Letter No. 02-03, January 18, 2002)

101-7
Both the length and type of post assessment WTW assignments must be based on an individualized assessment, as specified in W&IC §11325.22(b)(2). The assessment must consider, at a minimum, the recipient's educational level, employment experience, relevant employment skills, available program resources and local labor market opportunities. During the 18- or 24-month time limit, counties must make every effort to provide a CalWORKs WTW client with the allowable services, identified through the assessment process, that he/she needs to move toward self-sufficiency through employment. (All-County Letter No. 02-03, January 18, 2002)

101-8
Per §§42-711.522(c)(5) and 42-711.556, counties must inform participants in writing, prior to or during appraisal, of the right to be automatically referred to a third party assessment when the participants do not agree with the results of their assessments. Counties should include this information in the WTW handbook that they give to clients to ensure that clients are informed of this right. This referral must occur whether or not a county has properly informed the client of his/her right to a third party assessment, in accordance with §42-711.522(c)(5). The recipient is not required to request a third party assessment; the county must make the referral if the client informs the county that he/she is dissatisfied with the assessment. CDSS will be adding a statement on the WTW 1, Welfare To Work Plan Rights and Responsibilities Form, to inform participants of this right. The Department will also require this statement to be on any State-approved substitute form for the WTW 1 that is used by counties. (All-County Letter No. 02-03, January 18, 2002)

101-9 ADDED 8/05
A county may waive program requirements except as specified in §42-715.511, for a recipient who has been identified as a past or present victim of domestic abuse when it has been determined that good cause exists. Program requirements that can be waived include, but are not limited to time limits, work requirements, education requirements, paternity establishment and child support cooperation. Program requirements that cannot be waived are deprivation, assets, income and homeless assistance. (§42-715.51)

101-9A ADDED 9/06
Question: Must a county have written domestic abuse policies?

Answer: Yes. MPP Section 42-715.52 requires counties to have developed domestic abuse policies; and MPP Section 11-501.3 requires counties to have written clarification of those areas of the California Work Opportunity and Responsibility to Kids (CalWORKs) program in which counties have discretion to adopt specific standards that affect a client's eligibility, grant amount, and Welfare-to-Work (WTW) activities, including supportive services.

Question: Can a county have a general policy that no one gets a domestic abuse waiver for any reason?

Answer: No. As specified in §42-715.52, counties must develop criteria for waiving program requirements for past and present victims of domestic violence.

(All-County Information Notice I-02-06, January 9, 2006, questions and answers 2 and 3)

101-9B ADDED 9/06
Question: Must a county allow an individual to self-declare as a victim of domestic abuse?

Answer: Yes. As specified in MPP Section 42-715.12, counties must allow individuals to self-declare. Sworn statements by a victim of past or present abuse shall be sufficient to establish abuse unless the county documents in writing an independent and reasonable basis to find the applicant or recipient not credible. In those instances, a county may request additional supporting documentation such as documentation from legal, clerical, medical, or other professionals.

Question: Can a county waive the Self-Initiated Program (SIP) rules for a victim of domestic abuse?

Answer: Yes. There are no regulatory requirements that preclude the county from waiving the SIP requirements specified in MPP Section 42-711 for domestic abuse victims, as long as the domestic abuse circumstances prevented the individual from meeting the SIP rules at appraisal.

(All-County Information Notice I-02-06, January 9, 2006, questions and answers 4 and 15)

102-1
Every individual receiving aid is required to participate in welfare-to-work activities as a condition of eligibility, unless exempt from participation. (W&IC §11320.3(a); §42-712.1, effective July 1, 1998)

102-2
In general, an individual under 16 years of age is exempt from welfare-to-work participation. (W&IC §11320.3(b)(1); §42-712.411, effective July 1, 1998)

102-3 REVISED 6/04
In general, a 16, 17 or 18 year old child attending an elementary, secondary, vocational or technical school on a full-time basis is exempt from welfare-to-work participation. (W&IC §11320.3(b)(2); §42-712.421, effective July 1, 1998)

A person who is 16 or 17 years old, and certain custodial parents who are 18 or 19 years old (who received an exemption for caring for a child under six) shall not requalify for this exemption once having lost it. (W&IC §§11320.3(b)(2), 11325.3(d), 11325.25; All-County Letter No. 97-72, Attachment 1, pp. 14-15, October 29, 1997; §42-712.421)

An individual 16 or 17 years old who has obtained a high school diploma or equivalent, or planning to enroll in postsecondary educational, vocational or technical school training program is also exempt from WtW participation. (§42-712.422 effective January 1, 2004)

102-4
A person who has a disability which is expected to last for at least 30 days, and which significantly impairs the person's ability to be regularly employed or participate in welfare-to-work activities, shall be exempt from welfare-to-work participation. There must be a doctor's verification of the disability, its expected duration, and the extent of the impairment, and the person must actively seek appropriate medical treatment. (W&IC §11320.3(b)(3)(A); §42-712.44, effective July 1, 1998)

102-5
A person who is of "advanced age" shall be exempt from welfare-to-work participation. (W&IC §11320.3(b)(3)(B)) Advanced age has been defined by the CDSS as 60 years or older. (All-County Letter No. 97-72, Attachment 1, p. 15, October 29, 1997; §42-712.43, effective July 1, 1998)

102-6
A nonparent caretaker relative with primary responsibility for providing care for a child who is a dependent or ward of the court, or whom the county determines is at risk for FC placement, is exempt from welfare-to-work participation. The exemption applies when the county has determined that the caretaker relative provides caretaking responsibilities which are beyond those considered normal day-to-day parenting responsibilities, and impairs the caretaker's ability to be regularly employed or to participate in welfare-to-work activities. (W&IC §11320.3(b)(4); §42-712.45, effective July 1, 1998)

102-7
In general, a person whose presence in the home is required because of illness or incapacity of another member of the household is exempt from welfare-to-work participation. The person's ability to be regularly employed or to participate in welfare-to-work activities must be impaired for the exemption to apply. (W&IC §11320.3(b)(5); §42-712.46, effective July 1, 1998)

102-8
In general, a parent or other relative who has primary responsibility for personally providing care to a child six months of age or under is exempt from welfare-to-work participation. This specific one-time exemption may be reduced to the first 12 weeks, or increased to the first 12 months, after the birth or adoption of the child. The reduction or increase is made on a case-by-case basis, using county developed criteria. (W&IC §11320.3(b)(6)(A)(i); §42-712.471, effective July 1, 1998)

An individual who has received this exemption shall be exempt for a period of 12 weeks upon the birth or adoption of subsequent children. The county, using criteria it has developed, may extend this period to six months, on a case-by-case basis. (W&IC §11320.3(b)(6)(A)(ii); §42-712.472, effective July 1, 1998)

102-8A
In determining whether to extend the period of exemption from welfare-to-work for a person providing care to a child of 6 months of age or less, the following may be considered:

1. The availability of child care.

2. Local labor market conditions.

3. Other factors determined by the county.

(W&IC §11320.3(b)(6)(A)(iii); §42-712.472(b)(1)(A))

102-9
In general, a pregnant woman whose pregnancy impairs her ability to be regularly employed or to participate in welfare-to-work activities, is exempt from welfare-to-work participation. Medical verification must exist to establish these limitations.

Additionally, the county may exempt the pregnant woman if participation will not readily lead to employment, or if a training activity is not appropriate. (W&IC §11320.3(b)(7); §42-712.48, effective July 1, 1998)

102-9A
An individual is exempt from WTW participation if he/she is a full-time volunteer in the Volunteers in Service to America (VISTA) program. The exemption is documented by a copy of a Domestic Volunteer Earnings Statement or a written verification from the VISTA sponsor or the Federal Regional IX ACTION/VISTA Office. (§42-712.49, effective September 13, 1999)

102-10 REVISED 6/04
The following individuals shall not be required to participate for so long as the condition continues to exist: under age 16, full-time school attendance, disability or advanced age, primary child care responsibility, care for another who is ill or incapacitated, primary responsibility for a child under 6 months, or pregnancy with medical limitations. (W&IC §11320.3(b))

102-11
A recipient shall be excused from participation in welfare-to-work when the county determines there is a condition or circumstance which temporarily prevents or significantly impairs the person's ability to be regularly employed or to participate in welfare-to-work activities. The county shall review this good cause determination at least every three months. The recipient shall cooperate by providing information, including written documentation, as required to complete the review. (W&IC §11320.3(f); §42-713.1, effective July 1, 1998)

102-13
Generally, individuals with learning disabilities are able to meet WTW participation requirements when the learning disabilities are properly identified and necessary accommodations and/or assistive technologies are provided.

However, some individuals have learning disabilities (alone or in combination with other disabilities) that are so severe that they significantly impair the individual’s ability to be regularly employed or participate in WTW activities. The county would exempt such individuals from the participation requirements on a case-by-case basis if verification of the impairment(s) is provided by a health care professional who is licensed by the State to diagnose/treat physical and/or mental impairments (see §§42-712.44 and 42-701.2(d)(2)).

Health care professionals, such as Licensed Clinical Social Workers and Licensed Marriage and Family Therapists are qualified to provide verification of a learning disability exemption to the extent that they are licensed by the state and are specialized in diagnosing and treating learning disabilities.

(All-County Letter No. 01-70, October 17, 2001, Enclosed is information submitted by the claimant in this matter. Please notify me immediately if you wish to respond. pp.20-21)

103-1
Unless exempt under W&IC §11320.3, recipients shall attend orientation to the welfare-to-work program, attend appraisal per W&IC §11325.2, and participate in job search and job club activities per W&IC §11325.22. (W&IC §11320.1(a))

103-2
Any individual required to participate in welfare-to-work activities must enter into a written welfare-to-work plan with the County Welfare Department after assessment. (W&IC §11325.21; §42-711.61, effective July 1, 1998)

103-3
The welfare-to-work plan the recipient must sign after assessment shall meet the following requirements. It shall:

1. Be written in clear and understandable language, and have a simple, easy-to-read format. (W&IC §11325.21(c); §42-711.63) A copy of the complete, signed plan shall be provided to the participant. (§42-711.612, effective September 13, 1999)

2. Include the activities and services that will move the individual into employment including a general description of supportive services that are to be provided as necessary for the participant to complete the assigned activities. (W&IC §§11325.21(a) and (e); §42-711.61)

3. Contain a general description of:

    a. The program, including available program components and supportive services.

    b. The rights, duties, and responsibilities of program participants, including a list of exemptions from participation, consequences of failure to participate, and criteria for successful program completion. (W&IC §§11325.21(d)(1) and (2); §42-711.631)

4. Explain the "grace period", a 30-day period from the beginning of the initial training or education assignment in which to request a change or reassignment. (W&IC §§11325.21(d)(3) and 11325.22(b); §42-711.632(c))

5. Specify (including amendments) a description of needed services to be provided, specific requirements for successful completion of assigned activities including required hours of participation, and address school attendance of all children in

the AU for whom school attendance is compulsory. (W&IC §11325.21(e) and All-County Letter No. 97-72, Attachment 1, pp. 10-11, October 29, 1997; §42-711.632)

6. Require the participant to maintain satisfactory progress toward employment through the plan's methods and set forth the county's responsibility to provide the necessary supportive services, such as child care, transportation costs, ancillary expenses, and personal counseling. (W&IC §§11325.21(f) and 11323.2; §42-711.635)

103-3A ADDED 7/06
Except as specified in §§42-711.621 and .622, a non-exempt individual shall enter into his or her welfare-to-work plan after assessment, but no more than 90 days after the date that the individual's eligibility for aid is initially determined or the date that the individual is required to participate in welfare-to-work activities pursuant to §42-71 1.623(c) or (d) unless the individual meets an exemption criterion or is otherwise not required to sign a welfare-to-work plan. (§42-711.62)

103-3B ADDED 7/06
The individual may enter into his or her welfare-to-work plan with the county as late as 90 days after the completion of job search if job search, is initiated within 30 days after the individual's eligibility for aid is determined or the date the individual is required to participate pursuant to §42-711.623.

Job search is considered to be "initiated" when an individual begins attending an allowable job search activity.

The 90-day period specified in §42-711.62 and the 30-day period specified in §42-711.621 do not include the following:

Time in good cause, compliance, and sanctioning processes including the participation time in activities to end a sanction

Time in good cause includes time when the individual notifies the county in advance that he or she cannot attend an assigned activity and the county determines that the individual has good cause

Time between the date a learning disability evaluation appointment is scheduled and the date the county receives the final report, up to a maximum of 90 days. After the final report from the learning disability evaluator is received by the county, or on the 9Ist day if the final report has not been received, the 30- and 90-day periods resume

Except as noted above, the 90-day and 30-day time frames start as follows:

The date of the notice of action that informs a non-exempt individual of his or her initial eligibility for aid when he or she is eligible for aid on the date of application

The date a non-exempt individual begins receiving aid when the individual is initially ineligible for aid on the date of application and the county has determined that he or she will be eligible for aid within 60 days."

The date an individual is required to participate in welfare-to-work activities when he or she has been receiving aid but was not required to have a welfare-to-work plan developed and the county knows this date in advance

The date the county learned an individual is required to participate in welfare-to-work activities when he or she has been receiving aid but was not required to have a welfare-to-work plan and the county does not know this date in advance, but no longer than 30 days from the date the individual was required to participate

(§§42-711.62, .621-.623)

103-4 ADDED 7/06
Upon the completion of job search activities, or a determination that those activities are not required as an initial activity, the participant shall be assigned to one or more welfare-to- work activities as needed to obtain employment.

Individuals may participate in activities for up to the 60-month time limit, as long as participation is consistent with their assessments under §42-711.55 and/or in accordance with their welfare-to-work plan under §42-711.6. or reappraisal under §42-711.7.

(§42-716.1 and.11)

103-4A ADDED 7/06
Except for individuals who are exempt, are enrolled in self-initiated programs, who have been granted domestic abuse waivers, who are receiving family reunification services, or are 19-year-old custodial parents without a high school diploma, in order to fulfill participation requirements, an individual must participate for a minimum of 20 hours per week in one or more of specified core activities.

Those specified core activities are unsubsidized employment, subsidized public or private sector employment, work experience, on-the-job training (OJT), grant based OJT, work study, self-employment, community service, vocational education and training, and job search and job readiness assistance.

Participation in vocational education and training programs only count as a core activity for a cumulative total of 12 months during an individual's 60-month time limit on aid.

(§42-716.2, .21 and .211)

103-4B ADDED 7/06
After an individual has participated a minimum of at least 20 hours per week average of specified core activities, the remaining hours, up to 12 hours for an adult in a one-parent assistance unit , or up to 15 hours for an adult in a two-parent assistance unit, may be comprised of any of the welfare-to-work activities described in Section 42-716.31.

(§42-716.22)

103-4C ADDED 7/06
Hours spent in specified non-core activities {mental health, substance abuse, and domestic abuse services, and classroom, laboratory, and internships in adult basic education, job skills training directly related to employment, satisfactory progress in a secondary school or in a course of study leading to a certificate of general educational development, and education directly related to employment,} in excess of those that can be accomplished within the non-core hours can count as core hours if:

The county has determined that the assigned participation, if any, in mental health, substance abuse, and domestic abuse services is necessary for the individual to participate in core activities and

The assigned participation hours, if any, in classroom, laboratory, and internship activities in adult basic education job skills training directly related to employment satisfactory progress in a secondary school or in a course of study leading to a certificate of general educational development, and education directly related to employment pro meet the criteria listed below:

- The program leads to a self-supporting job
- The individual is making satisfactory progress
- The individual does not possess a baccalaureate degree unless he or she is pursuing a California regular classroom teaching credential
- The program is on the county list of programs that the county and local agencies agree will lead to employment in accordance with §42-711 .543(b)

(§42-716.23)

103-4D ADDED 7/06
Non-core hours spent in other activities necessary to assist an individual in obtaining unsubsidized employment, and participation required of the parent by the school to ensure the child's attendance, shall not prevent an individual from counting hours spent in those non-core activities described in §42-716.23 as core hours.

Hours spent in vocational education and training, as a non-core activity, shall prohibit an individual from counting non-core hours as described in §42-716.23 as core hours. (§42-716.24)

103-6
To comply with federal civil rights laws, the CDSS instituted a number of significant new requirements in regard to WTW participants with learning disabilities, some of which will be followed by changes in state regulations. The changes are as follows:

1. Mandatory screening for learning disabilities for all new and existing CalWORKs WTW participants by trained staff (participants may choose to decline the screening).

2. Use of a recommended learning disabilities screening tool that is widely recognized and validated.

3. Mandatory inclusion of learning disability evaluations when developing or amending WTW plans for CalWORKs participants with learning disabilities to determine appropriate accommodations and services.

4. Allowing fewer hours of participation in WTW activities when good cause exists based on a county's determination that a condition or other circumstance temporarily prevents, or significantly impairs, an individual's ability to be regularly employed or participate in WTW activities (see §42-713.1).

5. Retrospective adjustment of the 18- and 24-month time clock for individuals with learning disabilities who participated in WTW activities in which they did not make satisfactory progress, or find beneficial, due to the lack of appropriate accommodations. The individuals affected by this change are those WTW participants who:

   > were not screened for learning disabilities before signing a WTW plan or were screened/evaluated and found to have learning disabilities, but their learning disability was not accommodated; and

   > signed a WTW plan that did not fully consider the learning disability evaluation and/or need for reasonable accommodations.

6. Sharing the results from learning disabilities evaluations on inter-county transfers.

7. Determining the appropriateness of job search as a first activity for participants with verified learning disabilities.

(All-County Letter No. 01-70, October 17, 2001, pp. 2-3)

103-6A REVISED 12/04
The CDSS has agreed on the following definition of "learning disabilities". They are:

> "A heterogeneous group of disorders manifested by significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning or mathematical abilities.
>
> "These disorders are intrinsic to the individual and presumed to be due to central nervous system dysfunction. Even though a learning disability may occur together with other handicapping conditions (e.g., sensory or mental impairment); or environmental retardation, social and/or emotional disturbance influences (e.g., cultural differences, insufficient/inappropriate instruction, psychogenic factors): it is not the direct result of those conditions or influences.
>
> "For purposes of the CalWORKs WTW program, these disorders interfere with the participant's ability to obtain or retain employment or enter and participate in the CalWORKs program."

(All-County Letter No. 01-70, October 17, 2001, p.2; §42-701.2(l)(2))

103-6B
"Screening" is the first step towards identifying individuals with suspected learning disabilities. "It involves the use of a recognized and validated learning disabilities screening tool that is administered by designated individuals who have been trained on how to properly administer the tool. All individuals who receive a score on the screening tool that indicates a possible learning disability must be referred for further evaluation (see Section II.B below). Individual judgement [sic] should not be substituted for the screening tool outcome." (All-County Letter No. 01-70, October 17, 2001, Enc., p.3)

103-6C
"Reasonable accommodations" are modifications and adjustments that make it possible for a qualified individual with a disability to apply for or perform the essential functions of a job or to participate in assigned WTW activities. The CWD, and any of its service providers, must make reasonable modifications of their services to accommodate CalWORKs participants who have a disability, including a learning disability. The accommodations should be specific to an individual's needs and must be provided free of cost to the recipient by the county and any of its service providers. (All-County Letter No. 01-70, October 17, 2001, Enc., p.4)

103-6D
The learning disabilities screening for new CalWORKs WTW participants must be offered no later than at assessment. (All-County Letter (ACL) No. 02-64, August 29, 2002)

103-7
When an individual is identified with a learning disability, the county and the individual will review the written learning disabilities evaluation and discuss the types of jobs or other WTW activities that might best match the individual's skills while working around his/her limitations. The written evaluation should include a range of reasonable accommodations for the individual.

In making an employment referral or assigning an activity, the county is required to comply with §21-109. The county must provide a participant who has learning disabilities with an opportunity to participate in WTW activities through the provision of services that are comparable to those provided to a non-disabled participant. The county cannot deny access to an activity because of a participant's disability. In determining appropriate activities for a participant, the county must integrate the results from the participant's individualized assessment as well as the learning disabilities evaluation.

In determining which, if any, accommodations are needed to successfully perform a job or WTW activity, the individual's abilities and limitations must be considered relative to the specific requirements of the job or WTW activity. It may also be helpful to identify successful strategies the individual has used in the past at school and/or in other work settings that could be applied to new activities.

Under the Americans with Disabilities Act, an employer does not have to provide a reasonable accommodation to an individual with a disability if it would impose an undue hardship on the operation of the business. However, if a particular accommodation would impose an undue hardship, the employer must consider whether alternative accommodations are available that would not impose the hardship. Undue hardship is

defined as an action that requires significant difficulty or expense in relation to the size of the employer, the resources available, and the nature of the operation. Similarly, counties and their contractors must provide reasonable accommodations to individuals with disabilities to access their services, unless doing so would fundamentally change the nature of the service.

(All-County Letter No. 01-70, October 17, 2001, Enclosed is information submitted by the claimant in this matter. Please notify me immediately if you wish to respond., pp.4-5)

103-8
All new CalWORKs WTW participants must be screened for potential learning disabilities. WTW participants who have not previously been screened, must be screened for potential learning disabilities and all existing participants who were not previously offered a screening, must be screened by September 13, 2003, or at any earlier point when:

a. Individuals request a screening, self-identify as having a suspected learning disability (e.g., were previously in special education in K-12 school), or seem to have auditory or visual difficulty processing information.

b. Individuals are in the good cause determination, compliance, or sanction processes.

c. Individuals fail to maintain satisfactory progress in their WTW activities, including employment, or fail to progress in their assigned activities.

d. The individual identifies, or the county worker or WTW contractor suspects, that the individual has a learning disability.

e. There are any other situations in which individuals appear to have suspected learning disabilities.

The county may also screen those individuals who fail to progress in their post-cash aid employment.

<u>Participants with Limited English Proficiency (LEP)</u>

Currently, the existing recognized learning disabilities screening tools are validated only in English and can only be used for participants whose primary language is English. Counties must not attempt to translate an English-language screening tool for learning disabilities into other languages or use bilingual staff to translate it for LEP participants. However, counties must provide access to comparable learning disability screening and evaluation services for the LEP CalWORKs WTW population when it is suspected that a learning disability exists. Accordingly, counties must use alternative processes, such as referring a LEP participant to a qualified, bilingual professional for a learning disabilities evaluation.

(All-County Letter (ACL) No. 01-70, October 17, 2001, Enc., pp.6-7, as modified by ACL No. 02-64, August 29, 2002)

103-8A ADDED 12/04
Counties must offer CalWORKs welfare-to-work participants a screening for learning disabilities at the first welfare-to-work contact (i.e., orientation or appraisal) or by no later than the assessment as described in Section 42-711.55. The offer of the screening and evaluation must be both verbal and in writing.

Counties that choose to offer a screening for learning disabilities later than the first welfare-to-work contact are still required to provide information about the screening and evaluation at the first welfare-to-work contact.

(§42-722.11 and .13; All County Letter 04-48, October 29, 2004)

103-8B ADDED 12/04
Participants who request or agree to a learning disabilities screening at any time during their welfare-to-work participation must be screened by the county before they are assigned to another welfare-to-work activity. This provision applies only to participants who have not previously been screened.

Participants in welfare-to-work activities shall have good cause for not participating in their assigned activities when their screening appointment conflicts with their activity.

(All County Letter 04-48, October 29, 2004; §42-722.14)

103-8C ADDED 12/04
For limited English proficient CalWORKs WTW participants for whom no recognized and validated learning disabilities screening tools exist, the county must determine whether a potential learning disability exists. If the county determines that there is a potential learning disability, the county must refer the participant to a learning disabilities evaluation. (All County Letter 04-48, October 29, 2004; §42-722.15)

103-9 ADDED 12/04
When the participant declines the learning disabilities screening and/or evaluation, the county must:

- Inform the participant that his/her welfare-to-work plan activities will not reflect any accommodations for a learning disability; and

- Inform the participant that he/she may receive a learning disabilities screening and/or evaluation upon request at any time; and

- Read and discuss the waiver of the learning disabilities screening and/or evaluation with the participant and have the participant sign the waiver.

The county must not sanction a participant because of his/her refusal to be screened and/or evaluated for learning disabilities.

(All County Letter 04-48, October 29, 2004; §42-722.21 and.22)

103-10 ADDED 12/04
Counties must refer CalWORKs participants who are suspected of having a learning disability for a learning disabilities evaluation. These participants include, but are not limited to, individuals who:

- Have been identified as potentially having a learning disability, based on the learning disabilities screening tool score;
- Were previously identified as having learning problems (e.g., K-12 Special Education); or
- Are suspected of having a learning disability even though the results from the learning disabilities screening did not indicate a potential learning disability,
- Are limited-English proficient and request a referral to a learning disabilities evaluation if no validated screening tool exists in their primary language.

If the participant declines the learning disabilities evaluation, the county must inform the participant of how his/her welfare-to-work assignment will be affected.

(All County Letter 04-48, October 29, 2004; §42-722.41 and .42)

103-10A ADDED 12/04
Participants who are screened at assessment, found to have a potential learning disability, and agreed to an evaluation, must be evaluated prior to the completion of the assessment and the welfare-to-work plan. Participants in welfare-to-work activities shall have good cause for not participating in assigned activities when the evaluation appointment conflicts with their activity.

(All County Letter 04-48, October 29, 2004; §42-722.44 and .45)

103-10B ADDED 12/04
Counties are required to offer learning disabilities screenings and evaluations to exempt CalWORKs recipients who were not previously offered screenings and evaluations, when the exempt individual volunteers to participate.

Counties must offer learning disabilities screenings and evaluations to welfare-to-work participants who are working.

Participants need to be screened only once for learning disabilities while participating in welfare-to-work, not annually.

(All County Letter 04-48, October 29, 2004, questions and answers 1, 2 and 4)

103-11
If the written learning disabilities evaluation establishes that the participant does not have a learning disability, then the county must inform the participant of the findings and the participant will begin/resume the activities specified in his/her WTW plan.

If the written learning disabilities evaluation establishes that the participant has a learning disability, the county must:

a. Ensure that the assessment tests have been administered and the results from the assessment tests and the learning disabilities evaluation are integrated into the WTW plan, which is developed jointly with the client.

b. Provide a copy and an explanation of the evaluation test results to the participant, including any recommendations for reasonable accommodation(s) identified in the evaluation.

c. Discuss the appropriate WTW activities and reasonable accommodations needed to help the participant be successful in his/her WTW activities. The county must exercise caution to not limit the range of services or WTW activities simply due to a participant's learning disabilities.

d. Develop or modify the WTW plan to reflect appropriate WTW activities and necessary reasonable accommodations based on the mutual agreement of the county and the participant.

   The costs of providing necessary accommodations may be paid for with CalWORKs funds as a supportive service. The county and the participant should also consider other funding sources to pay for needed accommodations.

e. If the learning disability is confirmed during an individual's good cause determination or compliance process, the county will consult with the learning disabilities evaluator to determine if the disability contributed to the participant's failure to participate. If so, the participant shall be considered to have good cause and shall not be sanctioned. The county will also review the WTW plan and modify it.

f. If the learning disability is confirmed for an individual who is attempting to cure his/her sanction, the county will determine whether the learning disability was a contributing factor to the participant's noncompliance. If so, the county will rescind the sanction and issue any benefits to which the individual is eligible. The county will also review the WTW plan and modify it.

(All-County Letter No. 01-70, October 17, 2001, Enclosed is information submitted by the claimant in this matter. Please notify me immediately if you wish to respond., pp.13-14)

103-12
Per §42-711.582, a participant must be involved in the decisions made during the learning disabilities evaluation and has the right to appeal through the state hearing process per §42-721.5.

Similarly, if a participant states that discrimination occurred during the learning disabilities evaluation, s/he may file a discrimination complaint in accordance with §21-203.

(All-County Letter No. 01-70, October 17, 2001, Enclosed is information submitted by the claimant in this matter. Please notify me immediately if you wish to respond., p.15)

103-13
CalWORKs WTW regulations specify that job search is generally the first activity to which counties assign participants after appraisal (see §42-711.532). However, under §42-711.531(a), exceptions to this requirement include cases in which the county determines that participation in job search will not be beneficial for an individual. Recipients who fall under this exception, such as some individuals with learning disabilities, should not be required to participate in job search as their first CalWORKs activity. Therefore, counties must screen new applicants at appraisal for potential learning disabilities. (All-County Letter No. 01-70, October 17, 2001, Enc. p.17)

103-15
Generally, individuals with learning disabilities are able to meet WTW participation requirements when the learning disabilities are properly identified and necessary accommodations and/or assistive technologies are provided.

However, some individuals have learning disabilities (alone or in combination with other disabilities) that are so severe that they significantly impair the individual's ability to be regularly employed or participate in WTW activities. The county would exempt such individuals from the participation requirements on a case-by-case basis if verification of the impairment(s) is provided by a health care professional who is licensed by the State to diagnose/treat physical and/or mental impairments (see §§42-712.44 and 42-701.2(d)(2)).

Health care professionals, such as Licensed Clinical Social Workers and Licensed Marriage and Family Therapists are qualified to provide verification of a learning disability exemption to the extent that they are licensed by the state and are specialized in diagnosing and treating learning disabilities.

(All-County Letter No. 01-70, October 17, 2001, Enclosed is information submitted by the claimant in this matter. Please notify me immediately if you wish to respond. Postponement.20-21)

104-1
An applicant or recipient shall be subject to sanctions whenever the person fails or refuses without good cause: To sign a welfare-to-work plan; to comply with a mutually acceptable compliance plan; to participate or provide required proof of satisfactory progress in any assigned program activity (including self-initiated programs); to accept or continue employment; or to maintain or increase earnings. (W&IC §§11327.4(a)(1) and (2); §42-721.22, effective July 1, 1998)

104-2
Good cause for failure or refusal to comply with program requirements includes:

a. The employment, offer of employment, activity or training for employment discriminates on the basis of age, sex, race, religion, national origin, or physical or mental disability.

b. The employment or offer of employment exceeds the daily or weekly hours of work customary to the occupation.

c. The employment, offer of employment, activity or other training for employment is remote from the individual's home because the round trip travel time exceeds two hours, or walking is the only available means of transportation, and the round trip exceeds two miles. (The time and mileage limits exclude transportation or accompaniment of family members to a school or place providing care.)

d. The employment, offer of employment, activity or other training for employment involves conditions that are in violation of applicable health and safety standards.

e. The employment, offer of employment, or work activity does not provide for workers' compensation insurance.

f. The employment or work activity, if accepted, would cause an interruption in an approved education or job training program (excluding work experience, on-the-job training, or community service assignment) in progress. The program must be expected to lead to employment and provide sufficient income to be self-supporting. If the hours of participation in the approved program are fewer than the hours required for eligibility for aid, the county may require the person to participate in welfare-to-work activities so that the minimum hourly requirements are met.

g. The employment, offer of employment or work activity, if accepted, would cause the individual to violate union membership terms.

(W&IC §11320.31; §§42-721.311 - .317)

In addition to the above, the county shall take into consideration whether good cause exists because the person has a mental disability which caused or substantially contributed to the refusal or failure to comply with program requirements. (W&IC §11327.9; §42-721.32)

104-3 REVISED 9/06
When a member of the AU fails or refuses to comply with program requirements without good cause, that person shall be deleted from the AU.

The length of the disqualification shall be as follows. For the first instance of noncompliance, the sanction shall continue until the person performs those activities he or she previously refused to perform. For the second instance, the sanction shall be the longer of three months, or until the person performs those required activities. For the third and subsequent instances, the sanction shall be the longer of six months, or until the person performs those required activities.

Effective July 12, 2006, an individual may contact the county and request to cure the sanction without having to wait the minimum sanction period.

(W&IC §§11327.5(c) and (d);as amended July 12, 2006; §42-721.43, effective July 1, 1998; All-County Letter 06-27, July 25, 2006)

104-3A ADDED 6/04
The WTW 26 is a new recommended form to assist county staff in determining good cause. If the county chooses not to use the WTW 26, it must have written good cause criteria in accordance with All-County Letter 00-08 to assist county staff in determining good cause for non-participation.

(All-County Letter 03-59, November 14, 2003)

104-3B ADDED 6/04
The WTW 27 is a new required form to help recipients understand situations that are considered good cause reasons for non-participation. The WTW 27 must be mailed to the recipient along with the NA 840 sanction notice of action.

It is not necessary for recipients to complete or return the WTW 27. If a recipient returns the WTW 27, but then fails to either attend a scheduled meeting or discuss the problem on the phone and the county worker attempts but is unable to contact the recipient, the worker must determine whether or not good cause exists based upon available information including information on the WTW 27.

(All-County Letter 03-59, November 14, 2003)

104-3C ADDED 9/06
"An instance of noncompliance without good cause shall result in a financial sanction. This sanction shall terminate at any point if the noncomplying participant performs the activity or activities he or she previously refused to perform."

(Welfare and Institutions Code (W&IC) §11327.5;)

104-3D ADDED 9/06
Counties must use the curing process for first time sanctions, as outlined in ACL 03-59, to cure all sanctions.

In addition, counties must inform in writing, as soon as possible, all individuals who are currently sanctioned, or in the process of being sanctioned, for a second, third, or subsequent financial sanction that they may now contact the county welfare department at any time to make arrangements to cure their sanction. Counties' written notification should include the following suggested language; however, counties may modify the language to include appropriate reference to individual county Welfare-to-Work programs:

"Your family gets less cash aid because of a welfare-to-work sanction. You were sanctioned because you did not meet the welfare-to-work rules. The CalWORKs rules about sanctions have changed. To stop your sanction, you must agree to do what the county says about meeting the welfare-to-work rules. To stop your sanction, you can now contact your county worker at any time. If you do not know your worker's address or telephone number, call your county at _____."

(All-County Letter 06-27, July 25, 2006)

104-4
An instance of noncompliance shall not be established if an individual who the county has proposed to sanction establishes good cause for the failure or refusal, or does not establish good cause but agrees to, and then fulfills, the terms of a compliance plan. (W&IC §§11327.4(f) and (g); §42-721.28, effective July 1, 1998)

104-4A ADDED 6/04
Counties must use the newly developed compliance plan form (WTW 32) to inform the recipient of the steps he/she must take to comply with program requirements to avoid a sanction. Recipients must sign the WTW 32 indicating that they agree to complete the activities outlined in the plan or a sanction is imposed.

To correct the problem and avoid a sanction, the recipient must either meet the county worker in person or telephone the worker, and agree to enter into a compliance plan within the 20-day compliance period. The recipient must then complete the plan.

All-County Letter 03-59, November 14, 2003)

104-4B ADDED 6/04
A recipient is considered to have complied with program requirements by satisfactorily performing the activity he/she previously refused to perform, or another appropriate activity agreed upon by the county and recipient as specified in the compliance plan, until completed or up to 60 calendar days from the date the recipient begins the activity, whichever is less.

To meet compliance requirements, counties may not require the recipient to participate for a period of time that exceeds the length of the original activity that the recipient did not satisfactorily complete, although the recipient may be required to remain in the same activity once the compliance period is complete.

(All-County Letter 03-59, November 14, 2003)

104-4C ADDED 6/04
In the compliance process, a recipient has the opportunity to suggest an alternative activity if he/she does not agree with a county initiated plan. Counties may incorporate some or all of the recipient's suggestions into the plan. The recipient may file a request for state hearing to dispute the contents of the compliance plan.

(All-County Letter 03-59, November 14, 2003)

104-4D ADDED 6/04
An instance of noncompliance is counted if the individual corrects his/her participation problem after the 20-day period to present good cause or agree to a compliance plan has passed, but before the sanction begins.

(All-County Letter 03-59, November 14, 2003)

104-4E ADDED 6/04
The NA 840A is a new and required notice of action to inform a recipient who has claimed good cause within the 20-day good cause/compliance period of the county's determination. The county must complete the NA 840A and issue it as soon as possible after the county has made its determination of good cause or no good cause.

(All-County Letter 03-59, November 14, 2003)

104-5
When the county determines that an individual has failed or refused to comply with program requirements, it shall issue a notice of action to the individual. This notice shall take effect no earlier than 30 days after its issuance. The notice shall state that a sanction will be imposed unless the individual attends an appointment scheduled by the county, to be held within 20 calendar days of the notice, or contacts the county by phone, within that 20-calendar-day period, and provides information which establishes good cause for the alleged refusal or failure to participate; or the individual must agree to a compliance plan to correct the refusal or failure to comply. (W&IC §11327.4(b)(1); §§42-721.23, .231, effective July 1, 1998)

The notice of action shall contain the following additional information:

(a) The date, time, and location of the scheduled appointment.

(b) A description of the specific act(s) which cause the alleged noncompliance.

(c) A statement that the individual has the right to explain the failure or refusal to comply with program requirements, or to establish good cause for such failure or refusal.

(d) A general definition of good cause, and examples of good cause reasons for not participating.

(e) The right to establish good cause over the telephone, and the telephone number.

(f) The right of the individual to reschedule the appointment once within 20 days.

(g) A description of transportation and childcare services available to the individual in order to attend the appointment.

(h) A statement that if good cause is not found, a compliance plan will be developed and the individual will be expected to agree to the plan or face a sanction.

(I) The name, telephone number, and address of state and local legal aid and welfare rights organizations that may assist the individual with the good cause and compliance plan progress.

(j) The steps the individual must take to have aid restored at the end of the sanction period.

(§42-721.232)

The county shall schedule the good cause appointment within 20 calendar days from issuance of the notice. The individual shall be allowed to reschedule that appointment once within the 20-day calendar period. (W&IC §11327.4(b)(2); §42-721.24, effective July 1, 1998)

104-5A
If the individual fails to attend the scheduled "good cause" appointment, the county shall attempt to contact the individual by telephone at the time of or after the appointment to establish whether there was good cause for the failure or refusal, or whether there was no good cause but a compliance plan can be developed.

If the individual fails to attend the meeting or to contact the county within the specified 20-calendar-day period, and the county is unable to contact the individual by telephone, a sanction shall be imposed.

(W&IC §§11327.4(c) and (d); §§42-721.25, .26, effective July 1, 1998)

104-5B ADDED 6/04
The NA 840A is a new and required notice of action to inform a recipient who has claimed good cause within the 20-day good cause/compliance period of the county's determination. The county must complete the NA 840A and issue it as soon as possible after the county has made its determination of good cause or no good cause.

(All-County Letter 03-59, November 14, 2003)

104- ADDED 2/05
The following are the sanction procedures for the second parent in a two-parent assistance unit for which the basis for aid is unemployment:

- When the county sends the NA 840 to the first parent, it must also send the WTW 4, Notice To Other Parent, to the second parent. The WTW 4 notifies the second parent that the county will contact him/her if he/she is required to participate in WTW.

- Once the first parent is sanctioned, the second parent must begin or increase hours of participation in WTW to avoid his/her own sanction unless the second parent has good cause for not participating.

- If the second parent refuses to participate, or starts participating but subsequently stops without good cause, he/she is sanctioned. The county must first send the NA 845 to the second parent instead of the NA 840 before imposing a sanction. The NA 845 informs the second parent how both the first and second parent can restore aid.

- Participation by the second parent does not cure the sanction imposed upon the first parent. Each parent must cure his/her own sanction.

- If the second parent complies with WTW after the first parent is sanctioned, and the first parent cures his/her sanction, then one parent may stop (or reduce hours of) participation without being subject to sanction.

(All County Letter 04-47, October 27, 2004)

104-6A ADDED 2/05
In a two-parent assistance unit whose basis of deprivation is unemployment, the sanctioned parent shall be removed from the assistance unit.

For purposes of this section, if a spouse or second parent is participating to avoid the sanction of the noncomplying parent, the exemption for care of an ill or incapacitated household member and the care of a child under six months old do not apply.

(§42-721.45 and .453)

104-7 ADDED 6/04
Prior to the implementation of quarterly reporting to stop (cure) a WTW sanction, an individual must:

- Contact the county no sooner than 45 days prior to the end of any applicable minimum sanction period and inform the county of a desire to cure the sanction;

- Comply with county requirements to sign the WTW 29 (Plan to Stop WTW Sanction) either at a scheduled meeting or by mail; and

- Satisfactorily perform the activity specified in the curing plan until completed, or up to a maximum of 30 days, whichever is shorter, from the date the curing plan is signed

If the individual contacts the county to start the curing process after a first sanction is imposed, or after the minimum sanction period has ended for a second, third or subsequent sanction, and the individual successfully completes the curing process, his/her CalWORKs is restored back to the date the individual contacts the county indicating a desire to cure the sanction.

If the individual contacts the county to initiate curing and then fails to meet curing requirements without good cause, the sanction must continue until the individual contacts the county again to begin the curing process.

(All-County Letter 03-59, November 14, 2003)

104-7A ADDED 6/04
After the implementation of quarterly reporting to stop (cure) a WTW sanction, when an individual contacts the county to start the curing process after a first sanction is imposed, or after the minimum sanction period has ended for a second, third, or subsequent sanction, if the individual successfully completes the curing process CalWORKs is restored the first of the month following the date the individual contacted the county indicating a desire to cure the sanction. (All-County Letter 03-59, November 14, 2003)

104-8 REVISED 8/05
Good cause for not participating in welfare-to-work activities includes:

a. Lack of necessary supportive services.

b. The person is a victim of domestic abuse, when participation is detrimental to, or unfairly penalizes, the person or the person's family.

c. The age of the person, if it affects ability to participate in welfare-to-work activities or to become employed. (This provision was repealed effective July 1, 1998).

d. Licensed or license-exempt child care is not "reasonably available" during the individual's hours of training or employment, including commuting time, or arrangements have broken down or been interrupted, for children 10 years old or younger, for a child 11 years of age or older (when described in §§47-201.22 or .23), or for a foster care or SSI recipient child.

(§42-713.2, effective July 1, 1998, and modified effective September 13, 1999)

104-9 ADDED 6/04
Federal law (45 CFR §261.15) prohibits states from sanctioning a single parent with a child under age six for failing to meet work requirements, if child care is not available.

(All-County Letter 03-59, November 14, 2003)

105-1
Any student who, at the time he or she is initially required to participate in WTW activities, is enrolled in any undergraduate degree or certificate program that leads to employment may continue in that program for 18 months (and for 24 months in certain circumstances) if the student is making satisfactory progress in the program; the county determines that continuing in the program is likely to lead to self-supporting employment for the student; and the welfare-to-work plan reflects that determination. (W&IC §11325.23(a)(1); All-County Letter (ACL) No. 97-72, Attachment 1, p. 5, October 29, 1997; §42-711.541, effective July 1, 1998) The time the recipient is "initially required to participate", in §42-711.541, is interpreted as the earlier of the date the appraisal takes place or the date the recipient would have been appraised if the recipient had not failed, without good cause, to appear for the appraisal appointment. (ACL No. 99-32, Question 1, April 29, 1999; §42-711.541(a), effective September 13, 1999)

Students who possess a baccalaureate degree are not eligible for SIP participation unless the student is pursuing a California regular classroom teaching credential in a college or university with an approved teacher credential preparation program. (W&IC 11325.23; ACL No. 97-72; §42-711.542, effective July 1, 1998)

105-2
An SIP shall be determined to lead to employment if it is on a list of programs the County Welfare Department and local education agencies or providers agree lead to employment. The list must be agreed to annually with the first list completed no later than January 31, 1998. The list must be written, and available to the public, including CalWORKs participants, on request. (§42-711.543; All-County Letter No. 99-32, April 29, 1999) The county shall inform recipients in writing of how they may show that a program not on the approved SIP list will lead to self-supporting employment. (§42-711.543(b)(1)(A), effective September 13, 1999)

For students not in such an approved program, the county shall determine if the program leads to employment. The student shall be allowed to continue in the program within the 18- (or 24-) month time period, as set forth in W&IC §§11454(a) and (d), if the student demonstrates that the program will lead to self-supporting employment, and documentation is included in the welfare-to-work plan. (W&IC §§11325.23(a)(3)(A) and (B); §42-711.543, effective July 1, 1998)

105-2A
When a WTW recipient wants to continue in an SIP which is not on the county approved list, the county must provide the participant with written information that specifies procedures for approving programs and must allow a reasonable amount of time for the individual to provide documentation that the program will lead to employment. (All-County Letter No. 99-32, Question 4, April 29, 1999, interpreting §42-711.543(b))

105-3
If participation in an SIP, counting the number of hours required for classroom, laboratory or internship activities is not at least 32 hours per week, the county shall require concurrent participation in work activities to meet the 32-hour requirement. (W&IC §§11325.23(a)(3)(C), 11320.31(f), and 11322.8; §42-711.544, effective July 1, 1998) However, the concurrent participation shall not interfere with the SIP, and recipients must be informed that they are not required to accept any job that would interfere with the SIP. (All-County Letter (ACL) No. 99-32, Question 12, April 29, 1999)

105-3A
An assessment is not required to develop a WTW plan for participants in approved SIPs unless the county determines that an assessment is necessary to assign the participant to concurrent activities to meet the 32-hour weekly participation requirement. (§42-711.557) If no assessment is made, and the participant disagrees with the plan, the participant may request a state hearing. (All-County Letter No. 99-32, Question 16, April 29, 1999) If an assessment is made, and the participant and assessor disagree, the matter shall be referred to an impartial third party for an independent assessment, which is binding on the parties. Until the assessment has been performed, no state hearing shall be granted regarding the development of the employment plan. (§42-711.556)

105-3B
The mandated 32-hour weekly participation requirement for individuals in an SIP (§42-711.544) shall include hours spent in special classes or tutorials. The individual must have been evaluated as learning disabled (§42-711.58), and the educational institution must have determined that the classes or tutorials are necessary to mitigate barriers to educational success. (All-County Letter No. 99-32, Question 15, April 29, 1999)

105-4
For purposes of SIP approval, a recipient is "enrolled" in an undergraduate degree or certificate program, when the individual has applied for and been accepted in a degree or certificate program and continues to meet and fulfill all conditions imposed by the institution offering the program which are necessary to maintain enrollment status. (All-County Letter No. 99-32, Question 2, April 29, 1999, interpreting §§42-711.541, .547, and issued in regulatory form effective September 13, 1999 in §42-711.549)

105-5
An SIP cannot be denied solely on the basis that it cannot be completed within the individual's 18- or 24- month WTW activity time period, or within a county-determined period of time, because no such prohibition exists in regulations. (All-County Letter No. 99-32, Questions 5 and 6, April 29, 1999, referencing §42-711.541)

105-6
Recipients in unapprovable SIPs may be eligible to continue in those programs (per §42-711.547) until the next quarter or semester break, and if they are eligible, shall receive necessary supportive services during these periods. (All-County Letter No. 99-32, Questions 17 and 18, April 29, 1999)

105-7
The county may deny or reduce supportive services based on the participant's receipt of financial aid, including aid paid to SIP participants, "only when the participant agrees that the financial aid is actually available to cover the item(s) for which CalWORKs would otherwise pay." (All-County Letter No. 99-32, Question 19, April 29, 1999; §42-750.332)

105-8
If the county denies an individual's request to continue in an SIP, per §§42-711.541 or 42-711.542, the county shall notify the participant in writing that the SIP was denied, the reason(s) for the denial, and the right to appeal the denial. (§42-711.524)

105-9 ADDED 12/04
SB 1104 does not impact SIPs. Therefore, the 20-hour core activity participation requirement and the 12-month limit on vocational education and training do not apply to individuals who are enrolled in SIPs. Should the total of classroom, laboratory, and internship hours not equal the required 32 or 35 hours per week, participants must continue to participate in specified WTW activities to fulfill their work participation requirement. (ACL 04-41, October 8, 2004)

106-1 REVISED 8/05
Supportive services which are necessary for participation in the assigned program activity, or in order to accept employment, must be available to every participant, including those in SIPs. When necessary services are not provided, the individual will have established good cause for nonparticipation, under §42-713.21.

Supportive services must include childcare, transportation costs, ancillary expenses, and personal counseling. Payments for all such services, except for childcare, shall be advanced to the participant whenever necessary, and when desired by the participant. Requiring CalWORKs participants to use their income, income disregard or cash assistance payment to pay for supportive services violates state statutes and regulations.

(W&IC §§11323.2, 11325.23(d), and 11323.4(a); §42-750.1, effective July 1, 1998; ACL No. 00-54, August 11, 2000)

106-1A
The *Crary* lawsuit, which was filed under the Greater Avenues for Independence Program (GAIN) statutes, prohibited establishing caps or limits on supportive services. "State statute still does not permit counties to cap any supportive services costs."

Once an individual reaches the 18 or 24-month time limit and is participating in community service, a county must provide the participant childcare and has the option to provide other necessary supportive services. Those optional supportive services may be provided at an amount determined by the county and may differ from those provided to participants in pre-time limit activities. However, since community service is an assigned work activity, participants would have good cause for not participating if they are not provided the necessary supportive services, under §42-750.11.

While capping necessary supportive services is prohibited, there is no prohibition against a secondary review of proposed service costs beyond a predetermined level of expenditures. For example, under the County Plan, a county could permit staff to authorize or pay up to a certain amount in supportive services costs. Expenditures above this amount could be subject to verification of need through a process involving a narrative explanation in the case file and a review by a supervisor.

(All-County Letter No. 00-12, February 7, 2000; §42-750.11)

106-2
Payments for transportation shall be governed by regional market rates, as determined in accord with departmental regulations. (W&IC §11323.2(a)(2); §42-750.112, effective July 1, 1998)

The CDSS has determined that the participant shall use the least costly form of public transportation, including that provided by the welfare department, which would not preclude participation in work activities. Participants who voluntarily choose to use their own vehicles when public transportation is available shall be paid the public transportation rate. Transportation using multiple transportation carriers may be necessary. Fixed rate public or private transportation may be authorized.

When there is no such available public transportation, participants may use their own vehicles. Reimbursement shall be at the rate used in the county, or the county shall develop a rate that covers necessary costs. There shall be no "cap" or maximum monthly reimbursement amount. To be an allowable expense, parking requires the participant to submit receipts, except when parking meters are used. The actual cost of parking is reimbursed. (All-County Letter (ACL) No. 97-72, Attachment 1, p. 29, October 29, 1997; §§42-750.112(a) - (d), effective July 1, 1998; ACL No. 00-54, August 11, 2000)

106-2A
For parents of school-age children, if transporting children is a necessary supportive service in order for the parent to participate in his/her WTW activity, counties must provide payment or reimbursement as a CalWORKs transportation service. (All-County Letter No. 00-54, August 11, 2000)

106-3
Ancillary expenses shall include the cost of books, tools, clothing specifically required for the job, fees and other necessary costs. (W&IC §11323.2(a)(3)) Tuition and school fees in the nature of tuition are not ancillary expenses and the county need not pay such costs when a non-county entity has contracted for the training. (§42-750.113, effective July 1, 1998 and modified effective September 13, 1999)

106-3A ADDED 6/04
Capping ancillary services is prohibited. However, there is no prohibition against a secondary review of proposed service costs beyond a predetermined level of expenditures.

Necessary supportive services cannot be denied or reduced based on the participant's receipt of financial aid unless the participant voluntarily chooses to use the financial aid to cover costs otherwise covered by CalWORKs supportive services.

Costs for elective classes must be paid by CalWORKs if the elective class counts toward the degree or certificate program that is part of an approved WTW plan.

A county is responsible to pay for reasonable accommodations that are not otherwise provided by other sources if the items are necessary for the individual to participate on an equal basis with non-disabled participants in the approved WTW activity.

A county must pay for clothing and shoes if those items are necessary for a participant to secure or obtain employment.

(All-County Letter 04-04, January 26, 2004)

106-4
A person who has personal or family problems that would affect the outcome of the welfare-to-work plan shall, to the extent available, receive necessary counseling or therapy to help the person and the family adjust to the job or training assignment. (W&IC §11323.2(a)(4); §42-750.114, effective July 1, 1998) "To the extent available" means these services are available at no cost to the recipient, or the county develops a written policy authorizing payment for personal counseling. (§42-750.114(a), effective September 13, 1999)

106-5
Under CDSS supervision, the County Welfare Department is responsible for administering Stage One child care (Education Code §8351), either on its own or through contract with a public or private child care provider. (Educ. Code §8351(b); W&IC §11323.6)

The welfare department is responsible for initiating a family's transition from Stage One to Stage Two as quickly as possible once it has determined that the need for child care is stable. The basic Stage One limit is six months, which the county may extend if it determines the recipient's situation is too unstable to be shifted to Stage Two, or if there is no available Stage Two funded space. (All-County Letter No. 97-73, Attachment 1, p. 3, October 29, 1997; W&IC §11323.8; Educ. Code §8351(a))

106-5A ADDED 6/04
Counties shall manage the participant's transition from stage one to stage two child care pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code. If the county is operating stage two child care, the county shall manage the participant's transition from stage two to stage three pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code.

(Welfare and Institutions Code (W&IC)11323.8)

The second stage shall be administered by agencies contracting with the State Department of Education. Title 5 California Administrative Code, Section 11818 et. seq. sets forth the provisions for appeal with respect to these determinations.

(California Education Code §8353 (b))

106-7
The county may deny or reduce supportive services based on the participant's receipt of financial aid, including aid paid to SIP participants, "only when the participant agrees that the financial aid is actually available to cover the item(s) for which CalWORKs would otherwise pay." (All-County Letter No. 99-32, Question 19, April 29, 1999; §42-750.332)

106-8
The CDSS issued an All-County Letter (ACL) because it determined that some counties were not reimbursing working CalWORKs participants for the transportation expenses to which they may be eligible. The ACL provided clarification of policy for transportation reimbursement for CalWORKs recipients, and transmitted instructions to counties on how to correct any inappropriate denials for reimbursement for transportation services.

Welfare and Institutions Code (WIC) §§11323.2 (a), 11323.2 (d)(2), 11323.4 (a), and Manual of Policies and Procedures (MPP) §§42-711.552 and 42-750.11 require that necessary supportive services be available to recipients who participate in assigned Welfare To Work (WTW) activities or employment. MPP §42-716.11 specifically lists employment as a WTW activity. Counties who have not paid transportation costs for CalWORKs recipients must reimburse recipients for transportation services in the amount for which they would have otherwise been eligible.

The CDSS states that it mailed an informing notice to all cash aid recipients on or about August 30, 2001. The notice informed the recipients that if they believed they were entitled to reimbursement for transportation costs, they could apply for retroactive payments by submitting a Transportation Review Request Form. Recipients are eligible for reimbursement under the provisions of this requirement retroactive to January 1, 1998. Counties are not required to complete a case-by-case search to identify potential claimants other than for individuals who contact them as a result of this process. Reimbursement is not required if a county can demonstrate that reimbursement for transportation expenses was offered and the recipient did not request the payment.

State statutes and regulations require the provision of transportation services that are determined necessary for a participant to obtain or retain employment, or to participate in other WTW activities. Transportation payments cannot be offset with a participant’s income, income disregard, or cash assistance payment.

REVIEW AND NOTIFICATION

> From the date the Transportation Review Request Form is received, the county has 90 days to review the claim and advise the claimant of any missing information or verification needed to process the claim.

> The claimant will have 30 days from receipt of the notice to provide the missing information or verification. On the date all information and verification is received by the county, the county has up to 30 days to process the claim, mail notification of its decision to the claimant, and make payment if the client is eligible.

> When a county receives a claim for reimbursement of transportation expenses that a claimant incurred while he/she was eligible in another county, the county receiving the claim must promptly forward it to the appropriate county.

> Counties must verify claims and calculate the amount of reimbursement on the basis of the claimant's declaration or use the public transportation rate or some other method (e.g., Map Quest on the Internet) to determine a reimbursement amount.

(ACL No. 01-50, July 24, 2001)

106-8A ADDED 10/04
Counties must provide the least costly form of public transportation which would allow participation in WTW activities. If there is no public transportation available, or the round-trip travel time using public transportation exceeds two hours (not including time to transport family members to school or place providing care), the county must reimburse the participant using a private vehicle at a mileage rate used in the county or develop a rate that covers necessary costs.

The two-hour round trip includes the time it takes the individual to walk to public transportation from his/her home and from public transportation to the place of employment/activity. The reimbursement rate cannot include a "cap" or maximum amount beyond which additional miles are not reimbursed.

If public transportation is available and round-trip travel time does not exceed two hours, the county must pay mileage to a participant who drives a private vehicle up to the amount that public transportation would cost.

(All County Letter 03-15, April 10, 2003)

106-8B ADDED 10/04
The county is required to reimburse transportation costs necessary for each approved WTW if there is more than one. (All County Letter 03-15, April 10, 2003)

106-8C ADDED 10/04
The county is obligated to reimburse transportation costs for a participant's approved WTW activity including SIPs even though the participant crosses county lines and the amount of reimbursement seems excessive to the county. The county shall select a

mileage reimbursement rate used in the county or develop a rate that covers necessary costs.

While the rate may not include a "cap", the county could establish a rate that decreases after a set number of miles under certain circumstances. The decrease in rate would have to be based on a regional market rate that is partly intended to reimburse participants for fixed costs such as license, registration and insurance on a per mile basis. (All County Letter 03-15, April 10, 2003)

106-8D ADDED 10/04
The county must reimburse transportation costs to a participant who uses a vehicle that is not registered to the participant if the vehicle is necessary transportation to participate in WTW activities and if the participant is required to reimburse the owner of the vehicle or incurs expenses for using the vehicle. The amount of reimbursement depends on the participant's agreement with the vehicle's owner, but shall not exceed the county reimbursement rate. (All County Letter 03-15, April 10, 2003)

106-8E ADDED 10/04
Supportive services, including transportation, must be provided if they are necessary for the volunteer to participate in an activity which is part of the volunteer's WTW plan. (All County Letter 03-15, April 10, 2003)

106-9 ADDED 6/04
Counties are required to provide necessary supportive services, including advance payment of supportive services to individuals participating in activities to cure a sanction. If the county cannot provide these supportive services, the individual has good cause for not participating in activities to cure the sanction.

(All-County Letter 03-59, November 14, 2003)

106-10
Counties shall take all reasonable steps necessary to promptly correct any overpayment or underpayment of supportive services payments to a recipient or a service provider, consistent with CDSS procedures. (W&IC §11323.4(b); §42-751.11, effective July 1, 1998)

Prior to July 1, 1998, counties could not offset a child care overpayment against the CalWORKs grant unless the recipient agreed. Counties could otherwise develop their own procedures for correcting child care overpayments, underpayments, and erroneous payments. (All-County Letter No. 97-73, p. 9, October 29, 1997; §§42-751.3(d) and (e), modifying collection activities, effective July 1, 1998)

106-10A
Collection of overpayments of transportation and ancillary support services is governed by the following regulations:

(a) If the individual is no longer receiving aid under CalWORKs, recovery of overpayments shall not be attempted when the outstanding overpayments are less than $35.

(b) If the overpayment is the result of fraud, the county shall attempt to recover the overpayment in all situations, including (a).

(c) The collection and recovery of overpayments shall be deferred if it is not cost effective to pursue collection. If the county elects to defer collection, it shall notify the individual of that decision.

(§42-751.4, as modified from §42-751.3, effective September 13, 1999)

Overpayments are collectible, after written notification of the amount and that repayment is required, using reasonable cost-collection methods, as set forth below:

(1) Balancing.

(2) Offsetting overpayments against underpayments, subject to the procedures of §42-757.3(f).

(3) Grant adjustment, if the individual agrees, and does not revoke the agreement.

(§42-751.4(e), effective July 1, 1998, as modified from §42-751.3(d), effective September 13, 1999)

106-10B
When the county has determined that an overpayment for transportation or ancillary support services has occurred, the county shall calculate the amount of the overpayment. The county may use recovery methods, as set forth in §42-751.4(e), which result in the maximum recovery without interfering with program participation, and may use these recovery methods concurrently. (§42-751.2, effective September 13, 1999)

106-10C
The county "shall initiate recovery within 30 calendar days of the date the overpayment [of transportation or ancillary support services] is first discovered by notifying the individual in writing" of the overpayment and that the individual must contact the county within ten days. (§42-751.4(c), effective September 13, 1999)

If the individual is a current WtW participant, and either does not respond to the written notice within 10 calendar days, or fails or refuses or enter into a repayment agreement, the county may adjust the current WtW supportive payment service per §42-751.4(g)) unless the deferred repayment provisions of §42-751.4(d) apply. (§42-751.4(c)(1)(A))

The overpayment notice shall include:

1. The name of the overpaid person.

2. The amount owed.

3. The reason for the claim.

4. The period of time the claim covers.

5. The participant's right to a state hearing.

6. The reason repayment may be deferred under §42-751.4(d).

7. The reason that recovery will occur through adjustment of the supportive service payment if the individual fails to respond within 10 days.

(§42-751.4(c)(1)(B))

106-11
The CDSS has instructed the counties, under the authority granted to it under W&IC §11323.4(b), to collect erroneous payments made to child care providers of services which the provider received in good faith during a period when the participant was not eligible for the child care services because of his or her failure to participate in a required CalWORKs welfare-to-work activity. The erroneous payment shall be collected from the participant, not the provider. (All-County Letter No. 97-73, p. 9, October 29, 1997)

106-13 REVISED 7/06
Subject to specific expenditure authority, mental health services shall include all the following elements:

1. Assessment, to identify the level of the participant's mental health needs and the appropriate level of treatment and rehabilitation.

2. Appropriate case management, as determined by the county.

3. Treatment and rehabilitation services, including counseling necessary to overcome mental health barriers to employment, or to retaining employment. These services shall be coordinated with the participant's welfare-to-work plan.

4. A person with a secondary diagnosis of substance abuse who is referred for mental or emotional disorders shall also have the substance abuse treatment needs addressed by the welfare-to-work program.

5. A process by which the county can identify those with severe mental disabilities that may qualify them for aid under Chapter 3, Division 9, Part 3 of the W&IC, commencing with §12000. This chapter, the State Supplementary Program (SSP) for Aged, Blind and Disabled, includes aid payments, services, and in-home supportive services.

(W&IC §11325.7(c); §§42-716.411-.415, effective July 1, 1998)

106-16 REVISED 7/06
The county plan required by W&IC §10531 shall include a plan for the provision of substance abuse treatment services. Those plans shall include evaluation, substance abuse treatment, employment counseling, provision of community service jobs, or other appropriate services. (W&IC §11325.8(a); §42-716.51, effective July 1, 1998)

106-17
If the county alcohol and drug program or a state licensed or certified nonprofit agency determines the participant has a substance abuse problem, the case manager shall develop the participant's WtW plan based on that evaluation. The plan may then include appropriate treatment requirements, including assignment to a substance abuse program. (§42-711.571, effective September 13, 1999)

106-18
On January 19, 2001 the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) issued policy guidance on the prohibition of discrimination on the basis of disability as stated in Section 504 and Title II of ADA in the administration of the Temporary Assistance for Needy Families (TANF) program (Manual of Policy and Procedures Division 21-101).

The California Fair Employment and Housing Act (FEHA) was significantly changed effective January 1, 2001 to provide greater protection to people with disabilities and to expand what is considered a disability.

The inclusion of these civil rights protections ensures equal opportunity for persons with disabilities to benefit from all aspects of welfare reform, including initial access to programs and to proper supportive services needed to enable such individuals to work and keep their families healthy and intact.

Title II of ADA, §504 defines a "disability" with respect to an individual to mean "a physical or mental impairment that substantially limits one or more of the major life activities of such individual." FEHA defines a disability as a physical or mental impairment (without consideration of mitigation) which limits a major life activity. The definition under FEHA is much broader and means that many more people qualify as disabled under the state law.

Title II of ADA, §504, and FEHA require recipient agencies (counties) to adopt non-discriminatory methods of administration and to ensure equal access to individuals with disabilities by providing appropriate services and modifying policies, practices and procedures to provide such access unless these modifications would fundamentally alter the nature of the services, programs, or activities. The county is responsible for identifying disabled beneficiaries and assessing any barriers to employment. Where necessary, the county must remove those barriers to ensure that equal opportunities are provided to individuals with disabilities. This can be achieved by providing (1) individualized treatment when necessary and (2) effective and meaningful opportunities to assist the disabled in becoming self-sufficient.

Individualized treatment means that individuals with disabilities are treated on a case-by-case basis consistent with the facts and objective evidence. Moreover, individuals with and without disabilities must be afforded the opportunity to benefit equally from Welfare-to-Work (WTW) programs and services. Therefore, counties must provide appropriate reasonable accommodations, auxiliary aids and services to ensure communication and program accessibility. Counties should examine their methods of program administration from application to training, education and employment to ensure that individuals with disabilities have an equal opportunity to benefit from the WTW programs.

(All-County Letter No. 01-42, July 30, 2001)

106-20
"Grant-Based On-The-Job Training (OJT)" is a funding mechanism for subsidized public or private sector employment or OJT in which the CalWORKs recipient's cash grant, or a portion of it, together with the aid grant savings resulting from employment, is diverted to the employer as a wage subsidy to offset the payment of wages to the participant. The total amount diverted shall not exceed the family's maximum aid payment. Grant savings from employment is the net nonexempt income from employment, as determined pursuant to §44-111.2. Grant-based OJT may include community service positions. (§42-701.2(g)(2), as revised effective August 30, 2001)

106-21 REVISED 7/06
The County Welfare Department (CWD) shall assign a recipient to a Grant-Based On-The-Job Training (hereafter OJT) funded position only if the individual voluntarily consents in writing to the diversion of her/his grant to an employer as a wage subsidy following a one-on-one meeting in which the consent form and assignment are reviewed and discussed with the individual. The written consent shall include, as a minimum, the following:

.711 A statement that the recipient's assignment to OJT is voluntary and the CWD shall take no action against the individual for refusing to agree to be assigned to an OJT funded position.

.712 Notification that the participant is subject to sanction pursuant to §42-721, if she/he fails to comply with the requirements of the OJT assignment without good cause.

.713 A statement that the participant's net income from OJT may be less than the participant's current grant payment.

.714 The worksite(s) and job duties, the length of the OJT assignment, hours of employment, hourly wage, and available benefits.

.715 The good cause criteria set forth in §§42-713 and 42-721.3.

.716 An agreement by the participant that he/she is obligated to return any recovered wages to the CWD, up to the amount of any corrective underpayment paid pursuant to §42-716.742.

(§42-716.71, as revised effective April 3, 2006)

107-1
The major program requirements of the Cal-Learn program are:

.21 Each teen parent will be required to attend full-time school programs that will lead to a high school diploma or equivalent until he/she earns either or turns 19 years old.

.22 An AU with a teen parent(s) will receive up to four $100 bonuses in a 12-month period for each teen parent that makes satisfactory progress in his/her school program.

.23 Each teen parent receiving a high school diploma or its equivalent within the month he/she turns age 19, or turns 20 years old for a voluntary 19-year-old participant, will receive a $500 bonus.

.24 An AU with a teen parent(s) will receive a $100 sanction up to four times in a 12-month period for each teen parent who fails, without good cause, to make adequate progress in his/her school program.

.25 Child care, transportation, and ancillary expense payments will be provided to enable a teen parent to continue in or enroll in school.

.26 Intensive case management services modeled on the Adolescent Family Life Program will be provided.

(§42-762.2)

107-4
Individuals who have entered the Cal-Learn Program who are pregnant with no other children shall be eligible for CalWORKs and the pregnancy special need payment under §44-211.6 during their first and second trimesters of pregnancy. (§42-762.7)

Pregnancy is verified under §80-301m.(2). (§42-763.114)

107-6
If the county discovers that a pregnant or parenting teen should have been enrolled in Cal-Learn and was not, the county should take immediate action to correct the error and any underpayment, and refer the teen to the Cal-Learn Program. This includes pregnant or parenting 18-year-olds who are mandatory Cal-Learn participants and were erroneously referred to the CalWORKs Welfare to Work (WTW) Program.

Specifically, the following actions should be taken:

> The county should deem notification, as required by §42-764.1, to have occurred as of the date the teen would have been noticed, if the teen had been properly referred to the Cal-Learn Program.

> Bonuses that would have been issued as required by §42-769.1 during the time the teen was erroneously not in Cal-Learn should be restored. For the purpose of determining bonuses, the 90-day participation period specified in §42-766.334 shall apply beginning the date the teen would have been notified, absent the error.

> The teen should be reimbursed for any childcare, transportation, and ancillary expenses incurred during this time in accordance with §42-765.1.

> These retroactive payments for bonuses and supportive services will not be considered income or property in the month received or the following month (§44-340).

> Retroactive Cal-Learn bonuses cannot be used to offset any CalWORKs overpayment (§42-769.125). However, a CalWORKs recipient may voluntarily repay a supportive services overpayment through a cash aid grant adjustment (§42-751(e)(3) for transportation and ancillary expenses, and §47-440.12 for childcare costs).

> No sanction shall be retroactively applied since the teen lacked proper notice and the supportive services to help motivate him/her to make adequate progress in school.

> Existing Cal-Learn notices of action forms and messages are to be used to inform the teen of retroactive payments for bonuses and supportive services costs.

> If a teen parent was erroneously referred to the CalWORKs WTW Program, any months that were counted toward his or her 18 or 24 month time clock must be reversed.

(All-County Information Notice No. I-10-02, February 22, 2002)

108-1
The right to state hearings continues under the state welfare reform provisions enacted by Assembly Bill No. 1542. While the guidelines established maximum county flexibility in the implementation of welfare-to-work activities, participants continue to have all existing due process rights. This includes requesting a state hearing to review county procedures developed to implement the welfare-to-work provisions. (W&IC §10950; All-County Letter No. 97-73, p. 9, October 29, 1997)

108-2
Whenever a participant believes that any program requirement or assignment is in violation of his or her welfare-to-work plan or is inconsistent with Article 3.2 (commencing with §11320) of the W&IC, the participant may request a state hearing pursuant to the provisions of W&IC §10950-10967 (as implemented in §22-000 et seq.), or in most cases utilize a formal grievance procedure to be established by the county board of supervisors and specified in each county plan. (W&IC §11327.8(a); §42-721.51, effective July 1, 1998)

108-2A REVISED 8/05
A participant shall not utilize the grievance procedure to appeal the results of an assessment pursuant to W&IC §11325.4. (W&IC §11327.8(b))

W&IC §11325.4 deals with assessments, and specifies that when the assessor and participant cannot reach agreement, the matter shall be referred to an impartial third party for an "independent assessment". Such independent assessment shall bind the county and the participant. (W&IC §11325.4(c)(1); §42-711.556(a),)

No state hearing shall be granted regarding the development of an employment plan until an independent assessment has been performed.(§42-711.556(a)(1))

108-3
A participant who is not satisfied with the outcome of a grievance procedure may appeal the decision in accord with the procedures set forth in W&IC §10950 and following, and Division 22 of the MPP. Participants shall be subject to sanctions pending the outcome of the formal grievance procedure or any subsequent appeal "...only if they fail to participate during the period the grievance procedure is being processed." (W&IC §11327.8(b); §§42-721.511(e) and 42-721.512(e), effective July 1, 1998)

108-4
If a participant is not satisfied with a state hearing decision, and the decision deals with on-the-job working conditions or workers' compensation coverage, the participant may file a further appeal with the United States Department of Labor, as provided by federal law. (W&IC §11327.8(c); §42-721.511(d)) Effective September 13, 1999, the appeal of the decision is to the "appropriate state regulating agency." (§42-721.511(d))

Nothing in W&IC §11327.8(c) states that a dissatisfied participant is precluded from requesting a rehearing, or filing a writ of mandate with the superior court. (W&IC §§10960 and 10962; §42-721.511(b), effective July 1, 1998)

108-5 ADDED 6/04
Recipients have a right to appeal a finding of no good cause. If an appeal is made, the good cause/compliance/sanction process is suspended pending the hearing decision.

If the recipient requests a state hearing to dispute a compliance plan, the county may not take action on the sanction until the issuance of the hearing decision.

If an individual appeals his/her sanction through the state hearing process in a timely manner, the sanction may not be imposed until a state hearing decision sustaining the county action is issued. In these cases the county must continue to pay cash aid (§42-721.511(c)) and necessary child care as long as the individual is otherwise eligible (§47-220.32) pending the hearing decision.

(All-County Letter 03-59, November 14, 2003)

108-5A ADDED 6/04
If a recipient appeals a sanction through the state hearing process within the period of timely notification, no sanction shall be imposed until the hearing decision is reached.

Should the hearing decision be in favor of the county, cash aid that was paid is not considered an overpayment. The sanction is deferred and not imposed until after receipt of the hearing decision.

(§42-721.44; All-County Letter 03-59, November 14, 2003)

108-7
In reviewing whether the Department of Transportation's action to rescind the passive restraint requirement for automobile manufacturers was “arbitrary, capricious, an abuse

of discretion, or otherwise not in accordance with law," the U.S. Supreme Court applied the following analysis:

> "The scope of review under the 'arbitrary and capricious' standard is narrow and a court is not to substitute its judgment for that of the agency. Nevertheless, the agency must examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.' *Burlington Truck Lines* v. *United States*, 371 U.S. 156, 168, 83 S.Ct. 239, 245-246, 9 L.Ed.2d 207 (1962). In reviewing that explanation, we must 'consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment.' *Bowman Transp*. *Inc*. v. *Arkansas-Best Freight System*, supra, 419 U.S., at 285, 95 S.Ct., at 442; *Citizens to Preserve Overton Park* v. *Volpe*, supra, 401 U.S., at 416, 91 S.Ct., at 823. Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. The reviewing court should not attempt itself to make up for such deficiencies: 'We may not supply a reasoned basis for the agency's action that the agency itself has not given.' *SEC* v. *Chenery Corp*., 332 U.S. 194, 196, 67 S.Ct. 1575, 1577, 91 L.Ed. 1995 (1947). We will however, 'uphold a decision of less than ideal clarity if the agency's path may reasonably be discerned.' *Bowman Transp*. *Inc*. v. *Arkansas-Best Freight System*, supra, 419 U.S., at 286, 95 S. Ct. 106 (1973) (per curiam)"

(*Motor Vehicle Mfrs*. *Ass'n* v. *State Farm Mutual*. (1983) 463 U.S. 29, 43, 103 S.Ct. 2856, 2866)

108-7A
In the June 1995 UCLA Law Review, Professor Michael Asimow discusses review of California administrative agency actions which allow discretion to the agency.

> "In exercising discretion, an agency generally must consider and balance various factors established by statute, constitution or common law. A reviewing court decides independently whether the agency considered all of the legally relevant factors and whether it considered factors that it should not have considered." [Footnotes omitted] "Within the legal limits constraining an agency's discretion, the agency has power to choose between alternatives. A court must not substitute its judgment for the agency's, since the legislature delegated discretionary power to the agency, not to the court. Nevertheless, a court should reverse if an agency's choice was an abuse of discretion. [Footnotes omitted] Review for abuse of discretion consists of two distinct inquiries: the adequacy of the factual underpinning of the discretionary decision and the rationality of the choice." [Footnotes omitted] (Asimow, Michael, 42 UCLA Law Review 1157, 1228, 1229, June 1995)

108-8
Per §42-711.582, a participant must be involved in the decisions made during the learning disabilities evaluation and has the right to appeal through the state hearing process per §42-721.5.

Similarly, if a participant states that discrimination occurred during the learning disabilities evaluation, s/he may file a discrimination complaint in accordance with §21-203.

(All-County Letter No. 01-70, October 17, 2001, Enc., p.15)